

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**JESSIE VIVIAN DEPRONIO,**

**Plaintiff,**

**7:15-cv-231  
(GLS/CFH)**

**v.**

**CAROLYN W. COLVIN,** Acting  
Commissioner of Social Security,

**Defendant.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Law Offices of Kenneth Hiller  
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KENNETH R. HILLER, ESQ.

**FOR THE DEFENDANT:**

HON. RICHARD S. HARTUNIAN  
United States Attorney  
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JASON P. PECK  
Special Assistant U.S. Attorney

Steven P. Conte  
Regional Chief Counsel  
Social Security Administration  
Office of General Counsel, Region II  
26 Federal Plaza, Room 3904  
New York, NY 10278

**Gary L. Sharpe**  
**Senior District Judge**

## **MEMORANDUM-DECISION AND ORDER**

### **I. Introduction**

Plaintiff Jessie Vivian Depronio challenges defendant Commissioner of Social Security's denial of supplemental security income (SSI), seeking review under 42 U.S.C. §§ 405(g) and 1383(c)(3).<sup>1</sup> (Compl., Dkt. No. 1.) In a Report-Recommendation and Order (R&R) filed March 28, 2016, Magistrate Judge Christian F. Hummel recommended the Commissioner's decision be affirmed. (Dkt. No. 11.) Pending are Depronio's objections to the R&R. (Dkt. No. 12.) For the reasons that follow, the court adopts the R&R in its entirety.

### **II. Background**<sup>2</sup>

On September 20, 2010, Depronio filed an application for SSI under the Social Security Act ("the Act"). (Tr.<sup>3</sup> 70, 167-73.) After her application was denied, Depronio requested a hearing before an Administrative Law Judge (ALJ), which was held on February 6, 2012. (*Id.* at 35-63, 98-105,

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<sup>1</sup> 42 U.S.C. § 1383(c)(3) renders section 405(g) of Title 42 applicable to judicial review of SSI claims.

<sup>2</sup> The court incorporates the factual recitations of the parties and Judge Hummel. (See generally Dkt. Nos. 9 at 4-15, 10 at 2, 11 at 2-3.)

<sup>3</sup> Page references preceded by "Tr." are to the Administrative Transcript. (Dkt. No. 8.)

106-08.) On September 27, 2013, the ALJ issued a decision denying the requested benefits, which became the Commissioner's final determination upon the Social Security Administration Appeals Council's denial of review. (*Id.* at 1-3, 8-34.)

Depronio commenced the present action by filing a complaint on February 27, 2015, seeking judicial review of the Commissioner's determination. (Compl.) After receiving the parties' briefs, Judge Hummel issued an R&R recommending Depronio's motion for a finding of disability be denied and the Commissioner's decision finding no disability be affirmed. (See *generally* Dkt. No. 11.)

### **III. Standard of Review**

By statute and rule, district courts are authorized to refer social security appeals to magistrate judges for proposed findings and recommendations as to disposition. See 28 U.S.C. § 636(b)(1)(A), (B); N.D.N.Y. L.R. 40.1, 72.3(d); General Order No. 18. Before entering final judgment, this court reviews report and recommendation orders in cases it has referred to a magistrate judge. If a party properly objects to a specific element of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v.*

*N.Y. State Div. of Parole*, No. Civ. 904CV484GLS, 2006 WL 149049, at \*3, \*5 (N.D.N.Y. Jan. 18, 2006). In cases where no party has filed an objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and recommendations of the magistrate judge for clear error. *See id.* at \*4-5.

#### **IV. Discussion**

Depronio purports to object to the R&R on three grounds. Specifically, she asserts that Judge Hummel erred in: (1) finding that Depronio's learning disability was properly accounted for in the ALJ's Residual Functional Capacity (RFC) finding; (2) upholding the ALJ's interpretation of the record, which was based on a selective mischaracterized reading of the evidence; and (3) upholding the ALJ's decision to diminish Depronio's credibility based on her abusive relationship. (Dkt. No. 9 at 15-24.) The substance of all three arguments, however, was previously raised in Depronio's brief, and considered and rejected by Judge Hummel. (Compare Dkt. No. 9 at 15-17, 19-24 with Dkt. No. 11 at 8-21, 25-26.) These "objections," therefore, are general and reviewed only for clear error. *See Almonte*, 2006 WL 149049 at \*4.

Finding no clear error in the R&R, the court adopts Judge Hummel's R&R in its entirety.

## **V. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that Magistrate Judge Christian F. Hummel's March 28, 2016 Report and Recommendation (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further

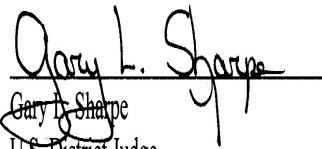
**ORDERED** that the decision of the Commissioner is **AFFIRMED** and Depronio's complaint (Dkt. No. 1) is **DISMISSED**; and it is further

**ORDERED** that the Clerk close this case; and it is further

**ORDERED** that the Clerk provide a copy of this Memorandum-Decision and Order to the parties.

**IT IS SO ORDERED.**

August 29, 2016  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge